

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2027 of 2019

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, by the petitioners herein/respondents aggrieved by the order dated 09.07.2019 passed in I.A.No.1224 of 2018 in O.S.No.1227 of 2018 by the XV Additional District Judge-cum-II Additional Family Judge, Ranga Reddy District, at Kukatpally, wherein the Court below directed the petitioners herein/lessees to pay arrears of rent of Rs.10,40,000/- from June, 2017 to October, 2018, within one month and also to pay future rent @ Rs.65,000/- per month from November, 2018 onwards, till the disposal of main suit.

2) Heard Sri M.M.M.Srinivasa Rao, learned counsel for the revision petitioners and Sri Vedula Srinivas, learned counsel for the respondents and perused the record.

3) Learned counsel for the revision petitioners would contend that payment of arrears of rent is the main issue involved in the subject suit and the same is required to be determined only after due trial of the case. Further, it is contended that video footages are not called for from the revision petitioners to demonstrate the payment of monthly rents. It is also contended that the revision petitioners have paid the rents and no arrears are payable to the respondent/lessor and ultimately prayed to allow the revision petition and set aside the impugned order.

4) Learned counsel for the respondent would contend that rent @ Rs.65,000/- is the admitted monthly rent. There is no receipt or

document to substantiate the payments made. The revision petitioners have setup a false defence that the monthly rent was paid by way of cash without obtaining any receipt. There is no video footage as contended by the revision petitioners and ultimately prayed to dismiss the revision petition.

5) In view of the submissions made by both sides, the point for determination is:

“Whether the impugned order dated 09.07.2019 passed in I.A.No.1224 of 2018 in O.S.No.1227 of 2018 by the trial Court, is liable to be set aside?”

6) **POINT:** Admittedly, there is no single document to show the payment of monthly rent by the revision petitioners. There is a rental agreement showing the monthly rent @ Rs.65,000/-. It is appropriate to refer Order XV-A of the Code of Civil Procedure, 1908, which reads as follows:

"ORDER XV-A: STRIKING OF DEFENCE IN A SUIT BY A LESSOR:

(1) In any suit by a lessor for eviction of a lessee or for the recovery of rent and future mesne profits from him, the defendant shall deposit such amount as the Court may direct on account of arrears upto the date of the order (within such time as the Court may fix) and thereafter continue to deposit in each succeeding month the rent claimed in the suit as the Court may direct. The defendant shall continue to deposit such amount till the decision of the suit unless otherwise directed. In the event of any default in making the deposit, as aforesaid, the Court may subject to the provisions of sub-rule (2) strike off the defence.

(2) Before passing an order for striking off the defence, the Court shall serve notice on the defendant or his Advocate to show cause as to why the defence should not be struck off, and the Court shall consider any such cause, if shown in order to decide as to whether the defendant should be relieved from an order striking off the defence.

(3) The amount deposited under this rule shall be paid to the plaintiff lessor or his Advocate and the receipt of such amount shall not have effect of prejudicing the claim of the plaintiff and it would not also be treated as a waiver of notice of termination."

The burden is heavily on the revision petitioners to substantiate the payment of monthly rents, when huge amount of rent @ Rs.65,000/- per month is paid for a considerable period. It cannot be said that payment of rent was made without obtaining any receipt. Furthermore, there is inconsistency with regard to the mode of payment of rent by the revision petitioners. One is by way of cash and the other is, adjustable in a suit pending between the same parties with regard to the alleged damages said to have been caused by the respondent herein to the revision petitioners. Since there is no document to substantiate the payment of rent and there are inconsistencies with regard to the defence setup by the revision petitioners and also there is enabling provision under Order XVA of CPC, the Court below is justified in directing the revision petitioners to pay the arrears of rent as well as future rent @ Rs.65,000/- per month, as indicated above. There is no illegality or infirmity in the impugned order. The civil revision petition is devoid of merit and is liable to be dismissed.

7) In the result, this Civil Revision Petition is dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

Date: 09.09.2019

scs

Dr. SHAMEEM AKTHER, J